IN THE HIGH COURT OF JUDICATURE AT BOMBAY

CRIMINAL APPELLATE JURISDICTION

CRIMINAL APPLN. NO. 2530 OF 2005

IN

CRIMINAL APPEAL NO. OF 2005

The State of Maharashtra .. Applicant
(orig. complainant)

Vs.

Anand G. Jadhav .. Respondent
(orig.accused)

Mr. D.P.Adsule, APP, for the Applicant-State.

CORAM: J.H.BHATIA, J.

DATE : 19th June, 2007.

P.C.

1. Heard Mr. Adsule, learned APP. Perused the impugned judgment and prosecution evidence.

2. By this Application, the prosecution seeks leave

to prefer appeal against the order of acquittal of the accused-respondent for the offences punishable under Sections 353, 504 and 506 of I.P.C. by J.M.F.C. Kagal, in Summary Criminal Case NO.109 of 1994

3. The prosecution case, in brief, is that P.W.5 - Nandkumar Dhumal was a forest Guard. He had registered a criminal case against one Balu Pasare for cutting forest trees. Two days after that, at about 9 p.m., P.W.5 Dhumal had been to the house of one Jagdale for dinner and after taking dinner when he was present there, the accused came and asked him why he had registered a case against his relative. The accused caught hold of collar of Nandkumar and pushed and abused him. Several witnesses were examined by the prosecution. After hearing, the learned trial Court found that the prosecution had failed to prove the charges.

4. P.W.5 Nandkumar deposed that the accused had caught his collar, abused him and had beaten him. However, the other two witnesses did not speak about the holding of the collar or pushing him. They only deposed that accused had abused him and had rushed towards him. None of them deposed what abuses were uttered.

5. Taking into consideration the incident which had

taken place at the house of Jagdale, it is clear that Nandkumar was not on official duty nor he was discharging any official duty at that time. Therefore, charge under Section 353 of I.P.C. cannot stand. About the remaining charges, evidence was not satisfactory. I find no fault in the impugned order.

6. Hence, leave to prefer appeal against the acquittal is refused. The Application stands rejected.

(J.H.BHATIA,J.)